



9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG-2018-0020]

RIN 1625-AA87

Security Zone; Choptank River, Cambridge, MD

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary security zone encompassing certain waters of the Choptank River. This action is necessary to prevent waterside threats before, during, and after an event held at the Hyatt Regency Chesapeake Bay Golf Resort, Spa and Marina in Cambridge, MD, during February 7–9, 2018. This rule prohibits vessels and persons from entering the security zone and requires vessels and persons in the security zone to depart the security zone, unless specifically exempt under the provisions in this rule or granted specific permission from the Coast Guard Captain of the Port Maryland-National Capital Region or his designated representative.

DATES: This rule is effective from noon on February 7, 2018, through 1 p.m. on February 9, 2018.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, type USCG-2018-0020 in the “SEARCH” box, and click “SEARCH.” Click on Open Docket Folder on the line associated with this rule.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Mr. Ronald L. Houck, Sector Maryland-National Capital Region Waterways Management Division, U.S. Coast Guard; telephone 410-576-2674, e-mail Ronald.L.Houck@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

COTP	Captain of the Port
CFR	Code of Federal Regulations
DHS	Department of Homeland Security
E.O.	Executive order
FR	Federal Register
NPRM	Notice of proposed rulemaking
Pub. L.	Public Law
§	Section
U.S.C.	United States Code

II. Background Information and Regulatory History

The Coast Guard is issuing this temporary rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are “impracticable, unnecessary, or contrary to the public interest.” Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because doing so would be impracticable and contrary to the public interest. The Coast Guard was unable to publish an NPRM and hold a comment period for this rulemaking due to the short time period between event planners notifying the Coast Guard of the event and publication of this security zone. It is necessary for the Coast Guard to establish this

security zone for this event to ensure the appropriate level of protection for high-ranking United States officials and the public. Delaying the rulemaking to allow for opportunity for comment would be contrary to the security zone's intended objectives of protecting the high-ranking United States officials and the public, as it would introduce vulnerability to the safety and security of high-ranking United States officials and the general public.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this temporary rule effective less than 30 days after publication in the **Federal Register** because doing so would be impracticable and contrary to the public interest for the same reasons discussed above for forgoing notice and comment.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 33 U.S.C. 1231. The COTP Maryland-National Capital Region has determined that a security zone is needed to protect VIPS (very important persons) and the public, mitigate potential terrorist acts, and enhance public and maritime safety and security in order to safeguard life, property, and the environment on or near the navigable waters near the Hyatt Regency Chesapeake Bay Golf Resort, Spa and Marina in Cambridge, MD.

IV. Discussion of the Rule

An event will be held at the Hyatt Regency Chesapeake Bay Golf Resort, Spa and Marina in Cambridge, MD, during February 7–9, 2018. A gathering of high-ranking U.S. officials is expected to take place at this event at Cambridge, MD. This rule establishes a security zone from noon on February 7, 2018, through 1 p.m. on February 9, 2018. The security zone will include all navigable waters of the Choptank River, within 2,000 yards of the Hyatt Regency Chesapeake Bay Golf Resort, Spa and Marina's Breakwater

Pavilion, in position latitude 38°33'54"N, longitude 076°02'47"W, located in Cambridge, MD. This location is entirely within the Area of Responsibility of the Captain of the Port Maryland-National Capital Region, as set forth at 33 CFR 3.25-15.

Entry into this security zone is prohibited, unless specifically authorized by the COTP Maryland-National Capital Region. Except for public vessels and vessels already at berth, mooring, or at anchor, this rule temporarily requires all vessels in the designated security zone as defined by this rule to immediately depart the security zone. Coast Guard personnel will be present to prevent the movement of unauthorized persons into the zone. Federal, state, and local agencies may assist the Coast Guard in the enforcement of this rule. The Coast Guard will issue Broadcast Notices to Mariners to further publicize the security zone and notify the public of changes in the status of the zone. Such notices will continue until the event is complete.

V. Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders (E.O.s) related to rulemaking. Below, we summarize our analyses based on a number of these statutes and E.O.s, and we discuss First Amendment rights of protestors.

A. Regulatory Planning and Review

E.O.s 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule has not been designated a “significant regulatory action” under E.O. 12866. Accordingly, it has not been reviewed by the Office of Management

and Budget.

This regulatory action determination is based on the size, location, and duration of the security zone. This security zone will impact the waters affected by this rule during an enforcement period of approximately two days. Due to the time of year, the amount of vessel traffic that will be prohibited from accessing the security zone is expected to be minimal. In addition, notifications will be made to the maritime community via marine information broadcasts so mariners may adjust their plans accordingly. Such notifications will be updated as necessary to keep the maritime community informed of the status of the security zone.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term “small entities” comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

While some owners or operators of vessels intending to transit the security zone may be small entities, for the reasons stated in section V.A above, this rule will not have a significant economic impact on any vessel owner or operator.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104-121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and

you have questions concerning its provisions or options for compliance, please contact the person listed in the FOR FURTHER INFORMATION CONTACT section.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

C. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

D. Federalism and Indian Tribal Governments

A rule has implications for federalism under E.O. 13132, Federalism, if it has a substantial direct effect on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in E.O. 13132.

Also, this rule does not have tribal implications under E.O. 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal

Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. If you believe this rule has implications for federalism or Indian tribes, please contact the person listed in the FOR FURTHER INFORMATION CONTACT section above.

E. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

F. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023-01 which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321-4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves establishing a security zone that is 49 hours in duration and is necessary to provide security for high-ranking U.S. officials and the public. It is categorically excluded from further review under paragraph L60(a) of Figure 2-1 of Appendix A, Table 1 of DHS Instruction Manual 023-01-001-01, Rev. 01. A Record of Environmental Consideration supporting this determination is available in the docket where indicated under ADDRESSES.

G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the FOR FURTHER INFORMATION CONTACT section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165-- REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05-1, 6.04-1, 6.04-6, and 160.5; Department of Homeland Security Delegation No. 0170.1.

2. Add § 165.T05-0020 to read as follows:

§ 165.T05-0020 Security Zone; Choptank River, Cambridge, MD.

(a) Location. The following area is a security zone: All navigable waters of the Choptank River, within 2,000 yards of the Hyatt Regency Chesapeake Bay Golf Resort, Spa and Marina's Breakwater Pavilion, in position latitude 38°33'54"N, longitude 076°02'47"W, located in Cambridge, MD. Coordinates refer to datum NAD 1983.

- (b) Definitions. As used in this section:

Captain of the Port means the Commander, U.S. Coast Guard Sector Maryland-National Capital Region.

Designated representative means any Coast Guard commissioned, warrant, or

petty officer who has been authorized by the Captain of the Port Maryland-National Capital Region to assist in enforcing the security zone described in paragraph (b) of this section.

Public vessel means a vessel that is owned or demise-(bareboat) chartered by the government of the United States, by a state or local government, or by the government of a foreign country and that is not engaged in commercial service.

(c) Regulations. The general security zone regulations found in 33 CFR part 165 subpart D apply to the security zone created by this section.

(1) Entry into or remaining in this zone is prohibited unless authorized by the Captain of the Port (COTP). Public vessels and vessels already at berth, mooring, or anchor at the time the security zone is implemented do not have to depart the security zone. All vessels underway within this security zone at the time it is implemented are to depart the zone.

(2) Persons desiring to transit the area of the security zone must first obtain authorization from the COTP or designated representative. To request permission to transit the area, the COTP and or designated representatives can be contacted at telephone number 410-576-2693 or on Marine Band Radio VHF-FM channel 16 (156.8 MHz). The Coast Guard vessels enforcing this section can be contacted on Marine Band Radio VHF-FM channel 16 (156.8 MHz). If permission is granted, persons and vessels must comply with the instructions of the COTP or designated representative and proceed as directed while within the zone.

(3) Enforcement officials. The U.S. Coast Guard may be assisted in the patrol and enforcement of the zone by Federal, State, and local agencies.

(d) Enforcement period. This section will be enforced from noon on February 7, 2018, through 1 p.m. on February 9, 2018.

Dated: January 31, 2018

Lonnie P. Harrison, Jr.

Captain, U.S. Coast Guard

Captain of the Port Sector Maryland-National Capital Region.

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